

AMENDED IN SENATE AUGUST 20, 2008

AMENDED IN SENATE AUGUST 12, 2008

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 24, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2759

Introduced by Assembly Member Jones

(Principal coauthor: Senator Steinberg)

**(Coauthors: Assembly Members Brownley, Coto, Huffman,
Krekorian, Laird, Mullin, and Nunez)**

(Coauthor: Senator Wiggins)

February 22, 2008

An act to amend Sections 8208, 8235, 8236, 8237, ~~8238, 8238.1, 8238.3, 8238.4, 8238.5, 8240, 8244, 8250.5, 8264.5, and 8266.1~~ of, to ~~8238.4, 8264.5, and 8266.1~~ of, to amend the heading of Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of, ~~to amend the heading of Article 8 (commencing with Section 8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of, to add Section 8236.1 to, to repeal Section 8238.6 of, and to repeal and add Section 8239 of, the Education Code, and to add Sections 8236.1 and 8236.2 to, the Education Code,~~ relating to child care and development services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as amended, Jones. State preschool programs: reform.

(1) Existing law requires the Superintendent of Public Instruction to administer state preschool programs, including part-day and preschool appropriate programs for low-income or otherwise disadvantaged prekindergarten age children.

This bill would recast those provisions as the California state preschool program, which would include both part-day and full-day education programs for three- and four-year-old children.

(2) Existing law requires the Superintendent to administer child care and development programs, which include programs that offer a full range of services for children from infancy to 13 years of age for any part of a day.

This bill would delete campus child care and development programs and child abuse protection and prevention services from the definition of child care and development programs.

(3) Existing law requires the Superintendent to administer preschool programs in accordance with specified funding priorities.

This bill would revise those funding priorities.

The bill would establish minimum hours per day and days per year for part-day and full-day California state preschool programs. The bill would require fees to be assessed and collected for families with children in full-day programs in accordance with fee schedules established by the Superintendent for families utilizing child care and development services, and would prohibit fees from being assessed for families whose children are enrolled in part-day programs.

(4) Existing law, for state preschool programs operating with funding that was initially allocated in a prior fiscal year, requires at least $\frac{1}{2}$ of the children enrolled at the preschool site to be 4 years old, and requires any exception to be approved by the Superintendent, and the Superintendent is required to inform the Secretary of Child Development and Education of any exceptions that have been granted.

This bill would instead require the Superintendent to inform the Secretary for Education and the Department of Finance, and would also require the Superintendent to inform those entities of the reasons the exceptions were granted.

(5) Existing law establishes an enrollment priority for agencies that receive funding for the expansion of a state preschool program.

This bill would delete that enrollment priority. The bill would require the State Department of Education to annually monitor funding utilized in child care and development programs for infants and toddlers and hours of service provided in the California state preschool program, and to annually report on specified matters to the Department of Finance and the Legislature.

(6) Existing law requires a state preschool program contracting agency to certify eligibility and enroll families within a specified timeframe each year.

This bill would specify that subsequent to enrollment, a child shall be deemed eligible for a part-day California state preschool program for the remainder of the program year. The bill would establish reimbursement rates for California state preschool program contracting agencies that offer full-day services to parents who have a qualifying need.

(7) Existing law provides for the allocation of funds for expenditure by the Superintendent for specified child development and preschool programs that serve children who would attend kindergarten in the subsequent academic year.

This bill would specify that those programs may participate in California state preschool programs, and would restrict the allocation of specified funds to eligible programs that were eligible to receive funding in the 2007–08 fiscal year.

~~(1) Existing law requires the Superintendent of Public Instruction to administer state preschool programs, including part-day and preschool appropriate programs for prekindergarten children 3 to 5 years of age, inclusive, in educational development, health services, social services, nutritional services, parent education and participation, evaluation, and staff development.~~

~~This bill would recast those provisions as California state preschool programs. The bill would recast the general child care and development programs as the center child care and development programs and would include full-day programs within these provisions. The bill would specify that the California state preschool program is available to 3-year-old and 4-year-old children, as defined.~~

~~(2) Existing law establishes a schedule for expenditure of prescribed funds appropriated pursuant to the Budget Act of 2006 and the Budget Act of 2005, for child development in preschool programs.~~

~~This bill would delete these provisions, and would establish a priority when offering funding under a new competitive bidding process after January 1, 2008, when prescribed funding is not sufficient.~~

~~(3) Existing law requires the Superintendent and the State Department of Education to administer prekindergarten and family literacy programs in accordance with specified funding and other requirements.~~

~~This bill would revise those requirements and would provide for the allocation of specified funds, upon appropriation in the annual Budget Act or another statute, for eligible programs that were implemented and received funding in the 2008–09 fiscal year. The bill would authorize the Superintendent to transfer funds appropriated on and after January 1, 2009, between center child care and development programs and the California state preschool program. The bill would require the State Department of Education to annually monitor funding for child care and development programs for infants and toddlers, and would require the department to report annually on specified matters to the Department of Finance and the Legislature.~~

~~(4) Existing law establishes an enrollment priority for state preschool program services.~~

~~This bill would revise the enrollment priority.~~

~~(5) Existing law requires certain entities operating child care and development programs to employ a program director, and authorizes the Superintendent to waive the qualifications for the program director under specified circumstances.~~

~~This bill would recast those provisions to replace references to general child care and development programs and to campus child care and development programs with references to center child care and development programs, and would delete obsolete cross-references.~~

~~(6) Existing law establishes reimbursement rates for child care and development program providers and requires the Superintendent to establish a fee schedule for families utilizing child care services under these provisions.~~

~~This bill would revise those reimbursement rates for California state preschool program providers and would require fees to be assessed and collected for families with children in full-day preschool programs pursuant to the fee schedule provisions.~~

~~(7)~~

~~(8) The bill would become operative on July 1, 2009, and only if SB 1629 of the 2007–08 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2009.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) Learning begins at the earliest stages of life and research~~
4 ~~shows that preschool is a proven investment in children's academic~~
5 ~~success and their success later in life. A high-quality preschool~~
6 ~~system would benefit California children, the state's systems of~~
7 ~~public and higher education, its families and students, and its~~
8 ~~economy overall.~~

9 ~~(b) Effective preschool provides eager young learners with early~~
10 ~~academic and social skills that prepare them for later learning.~~
11 ~~Developing these skills requires developmentally appropriate,~~
12 ~~intentional instruction from skilled teachers.~~

13 ~~(c) Unfortunately, too many children are turned away from~~
14 ~~preschool, and the children who lack access to preschool are~~
15 ~~disproportionately children of color, children whose home language~~
16 ~~is not English, and children whose parents did not graduate from~~
17 ~~high school. Research has shown that only one-half of all eligible~~
18 ~~children in California are enrolled in a state preschool or the federal~~
19 ~~Head Start Program.~~

20 ~~(d) Currently, California's preschool programs consist of both~~
21 ~~state and federally funded programs for the provision of part-day~~
22 ~~and full-day preschool and child care.~~

23 ~~(e) According to the National Institute of Early Education~~
24 ~~Research, California's state preschool programs meet only four of~~
25 ~~10 benchmarks for quality preschool. A vast body of research~~
26 ~~shows that only high-quality preschool results in the child outcomes~~
27 ~~and cost-benefits widely attributed to preschool.~~

28 ~~(f) The myriad of state child development programs that serve~~
29 ~~children 3 to 5 years of age, inclusive, are unnecessarily complex;~~
30 ~~programs are not rewarded or given enough support to achieve the~~
31 ~~high-quality learning environments that our most disadvantaged~~
32 ~~children need and deserve.~~

33 ~~(g) In order to take full advantage of the integral role that a~~
34 ~~quality preschool system plays in helping prepare children for~~
35 ~~school, which would benefit the state's most vulnerable pupils and~~

1 children from low-income families, including English language
2 learners, California must create a more coherent and efficient
3 publicly funded preschool program and lay the groundwork for
4 high quality. Consolidating and streamlining the state's preschool
5 program within existing revenues and expenditures and creating
6 a system that provides for higher quality learning environments
7 would greatly increase California's ability to bridge the
8 achievement gap.

9 (h) Pursuant to this act to consolidate and streamline California's
10 existing state preschool programs, the State Department of
11 Education shall undertake actions to promote the preservation of
12 current funding utilized to provide center child care and
13 development services to infants and toddlers and the number of
14 preschool age children receiving full-time child care and
15 development services.

16 (i) Making the necessary investments to expand the state's
17 preschool system while the state faces a budget shortfall will be
18 difficult, but important steps can be taken now to put in place the
19 framework for a high-quality preschool system upon which future
20 expansion can be built.

21 **SEC. 2.**

22 *SECTION 1.* Section 8208 of the Education Code is amended
23 to read:

24 8208. As used in this chapter:

25 (a) "Alternative payments" includes payments that are made by
26 one child care agency to another agency or child care provider for
27 the provision of child care and development services, and payments
28 that are made by an agency to a parent for the parent's purchase
29 of child care and development services.

30 (b) "Alternative payment program" means a local government
31 agency or nonprofit organization that has contracted with the
32 department pursuant to Section 8220.2 to provide alternative
33 payments and to provide support services to parents and providers.

34 (c) "Applicant or contracting agency" means a school district,
35 community college district, college or university, county
36 superintendent of schools, county, city, public agency, private
37 nontax-exempt agency, private tax-exempt agency, or other entity
38 that is authorized to establish, maintain, or operate services
39 pursuant to this chapter. Private agencies and parent cooperatives,
40 duly licensed by law, shall receive the same consideration as any

1 other authorized entity with no loss of parental decisionmaking
2 prerogatives as consistent with the provisions of this chapter.

3 (d) “Assigned reimbursement rate” is that rate established by
4 the contract with the agency and is derived by dividing the total
5 dollar amount of the contract by the minimum child day of average
6 daily enrollment level of service required.

7 (e) “Attendance” means the number of children present at a
8 child care and development facility. “Attendance,” for the purposes
9 of reimbursement, includes excused absences by children because
10 of illness, quarantine, illness or quarantine of their parent, family
11 emergency, or to spend time with a parent or other relative as
12 required by a court of law or that is clearly in the best interest of
13 the child.

14 (f) “Capital outlay” means the amount paid for the renovation
15 and repair of child care and development facilities to comply with
16 state and local health and safety standards, and the amount paid
17 for the state purchase of relocatable child care and development
18 facilities for lease to qualifying contracting agencies.

19 (g) “Caregiver” means a person who provides direct care,
20 supervision, and guidance to children in a child care and
21 development facility.

22 (h) “Child care and development facility” means any residence
23 or building or part thereof in which child care and development
24 services are provided.

25 (i) “Child care and development programs” means those
26 programs that offer a full range of services for children from
27 infancy to 13 years of age for any part of a day, by a public or
28 private agency, in centers and family child care homes. These
29 programs include, but are not limited to, all of the following:

- 30 (1) ~~Center~~ General child care and development.
- 31 (2) Migrant child care and development.
- 32 (3) Child care provided by the California School Age Families
33 Education Program (Article 7.1 (commencing with Section 54740)
34 of Chapter 9 of Part 29 of Division 4 of Title 2).
- 35 (4) California state preschool program.
- 36 (5) Resource and referral.
- 37 (6) Child care and development services for children with
38 exceptional needs.
- 39 (7) Family child care home education network.
- 40 (8) Alternative payment.

(9) Schoolage community child care.

(j) “Child care and development services” means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) “Children at risk of abuse, neglect, or exploitation” means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(l) “Children with exceptional needs” means either of the following:

(1) Infants and toddlers under three years of age who have been determined to be eligible for early intervention services pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) and its implementing regulations. These children include an infant or toddler with a developmental delay or established risk condition, or who is at high risk of having a substantial developmental disability, as defined in subdivision (a) of Section 95014 of the Government Code. These children shall have active individualized family service plans, shall be receiving early intervention services, and shall be children who require the special attention of adults in a child care setting.

(2) Children ages 3 to 21 years, inclusive, who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000) of Division 4 of Title 2, and who meet eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children shall have an active individualized education program, shall be receiving early intervention services or appropriate special education and related services, and shall be children who require the special attention of adults in a child care setting. These children include children with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (also referred to as

1 emotional disturbance), orthopedic impairments, autism, traumatic
2 brain injury, other health impairments, or specific learning
3 disabilities, who need special education and related services
4 consistent with Section 1401(3)(A) of Title 20 of the United States
5 Code.

6 (m) “Closedown costs” means reimbursements for all approved
7 activities associated with the closing of operations at the end of
8 each growing season for migrant child development programs
9 only.

10 (n) “Cost” includes, but is not limited to, expenditures that are
11 related to the operation of child care and development programs.
12 “Cost” may include a reasonable amount for state and local
13 contributions to employee benefits, including approved retirement
14 programs, agency administration, and any other reasonable program
15 operational costs. “Cost” may also include amounts for licensable
16 facilities in the community served by the program, including lease
17 payments or depreciation, downpayments, and payments of
18 principal and interest on loans incurred to acquire, rehabilitate, or
19 construct licensable facilities, but these costs shall not exceed fair
20 market rents existing in the community in which the facility is
21 located. “Reasonable and necessary costs” are costs that, in nature
22 and amount, do not exceed what an ordinary prudent person would
23 incur in the conduct of a competitive business.

24 (o) “Elementary school,” as contained in Section 425 of Title
25 20 of the United States Code (the National Defense Education Act
26 of 1958, Public Law 85-864, as amended), includes early childhood
27 education programs and all child development programs, for the
28 purpose of the cancellation provisions of loans to students in
29 institutions of higher learning.

30 (p) “Family child care home education network” means an entity
31 organized under law that contracts with the department pursuant
32 to Section 8245 to make payments to licensed family child care
33 home providers and to provide educational and support services
34 to those providers and to children and families eligible for
35 state-subsidized child care and development services. A family
36 child care home education network may also be referred to as a
37 family child care home system.

38 (q) “Health services” include, but are not limited to, all of the
39 following:

1 (1) Referral, whenever possible, to appropriate health care
2 providers able to provide continuity of medical care.

3 (2) Health screening and health treatment, including a full range
4 of immunization recorded on the appropriate state immunization
5 form to the extent provided by the Medi-Cal Act (Chapter 7
6 (commencing with Section 14000) of Part 3 of Division 9 of the
7 Welfare and Institutions Code) and the Child Health and Disability
8 Prevention Program (Article 6 (commencing with Section 124025)
9 of Chapter 3 of Part 2 of Division 106 of the Health and Safety
10 Code), but only to the extent that ongoing care cannot be obtained
11 utilizing community resources.

12 (3) Health education and training for children, parents, staff,
13 and providers.

14 (4) Followup treatment through referral to appropriate health
15 care agencies or individual health care professionals.

16 (r) "Higher educational institutions" means the Regents of the
17 University of California, the Trustees of the California State
18 University, the Board of Governors of the California Community
19 Colleges, and the governing bodies of any accredited private
20 nonprofit institution of postsecondary education.

21 (s) "Intergenerational staff" means persons of various
22 generations.

23 (t) "Limited-English-speaking-proficient and
24 non-English-speaking-proficient children" means children who
25 are unable to benefit fully from an English-only child care and
26 development program as a result of either of the following:

27 (1) Having used a language other than English when they first
28 began to speak.

29 (2) Having a language other than English predominantly or
30 exclusively spoken at home.

31 (u) "Parent" means a biological parent, stepparent, adoptive
32 parent, foster parent, caretaker relative, or any other adult living
33 with a child who has responsibility for the care and welfare of the
34 child.

35 (v) "Program director" means a person who, pursuant to Sections
36 8244 and 8360.1, is qualified to serve as a program director.

37 (w) "Proprietary child care agency" means an organization or
38 facility providing child care, which is operated for profit.

39 (x) "Resource and referral programs" means programs that
40 provide information to parents, including referrals and coordination

1 of community resources for parents and public or private providers
2 of care. Services frequently include, but are not limited to: technical
3 assistance for providers, toy-lending libraries, equipment-lending
4 libraries, toy- and equipment-lending libraries, staff development
5 programs, health and nutrition education, and referrals to social
6 services.

7 (y) “Severely disabled children” are children with exceptional
8 needs from birth to 21 years of age, inclusive, who require intensive
9 instruction and training in programs serving pupils with the
10 following profound disabilities: autism, blindness, deafness, severe
11 orthopedic impairments, serious emotional disturbances, or severe
12 mental retardation. “Severely disabled children” also include those
13 individuals who would have been eligible for enrollment in a
14 developmental center for handicapped pupils under Chapter 6
15 (commencing with Section 56800) of Part 30 of Division 4 of Title
16 2 as it read on January 1, 1980.

17 (z) “Short-term respite child care” means child care service to
18 assist families whose children have been identified through written
19 referral from a legal, medical, or social service agency, or
20 emergency shelter as being neglected, abused, exploited, or
21 homeless, or at risk of being neglected, abused, exploited, or
22 homeless. Child care is provided for less than 24 hours per day in
23 child care centers, treatment centers for abusive parents, family
24 child care homes, or in the child’s own home.

25 (aa) (1) “Site supervisor” means a person who, regardless of
26 his or her title, has operational program responsibility for a child
27 care and development program at a single site. A site supervisor
28 shall hold a permit issued by the Commission on Teacher
29 Credentialing that authorizes supervision of a child care and
30 development program operating in a single site. The Superintendent
31 may waive the requirements of this subdivision if the
32 Superintendent determines that the existence of compelling need
33 is appropriately documented.

34 (2) For California state preschool programs, a site supervisor
35 may qualify under any of the provisions in this subdivision, or
36 may qualify by holding an administrative credential or an
37 administrative services credential. A person who meets the
38 qualifications of a site supervisor under both Section 8244 and
39 subdivision (e) of Section 8360.1 is also qualified under this
40 subdivision.

(ab) “Standard reimbursement rate” means that rate established by the Superintendent pursuant to Section 8265.

(ac) “Startup costs” means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(ad) “California state preschool program” means part-day and full-day educational programs for low-income or otherwise disadvantaged three- and four-year-old children.

(ae) “Support services” means those services that, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(af) “Teacher” means a person with the appropriate permit issued by the Commission on Teacher Credentialing who provides program supervision and instruction that includes supervision of a number of aides, volunteers, and groups of children.

(ag) “Underserved area” means a county or subcounty area, including, but not limited to, school districts, census tracts, or ZIP Code areas, where the ratio of publicly subsidized child care and development program services to the need for these services is low, as determined by the Superintendent.

(ah) “Workday” means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(ai) “Three-year-old children” means children who will have their third birthday on or before December 2 of the fiscal year in which they are enrolled in a California state preschool program.

(aj) “Four-year-old children” means children who will have their fourth birthday on or before December 2 of the fiscal year in which they are enrolled in a California state preschool program.

~~(ak) “Interactive literacy activities” means activities in which parents or guardians actively participate in facilitating the~~

1 acquisition by their children of prereading skills through guided
2 activities such as shared reading, learning the alphabet, and basic
3 vocabulary development.

4 ~~(at)~~

5 (ak) “Local educational agency” means a school district, a
6 county office of education, a community college district, or a
7 school district on behalf of one or more schools within the school
8 district.

9 ~~SEC. 3.~~

10 SEC. 2. The heading of Article 7 (commencing with Section
11 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of the
12 Education Code is amended to read:

13
14 Article 7. California State Preschool Programs

15
16 ~~SEC. 4.~~

17 SEC. 3. Section 8235 of the Education Code is amended to
18 read:

19 8235. (a) The Superintendent shall administer all California
20 state preschool programs. Those programs shall include, but not
21 be limited to, part-day and full-day age, ~~culturally, linguistically,~~
22 and developmentally appropriate programs for three- and four-year
23 old children in educational development, health services, social
24 services, nutritional services, parent education and parent
25 participation, evaluation, and staff development. Preschool
26 programs for which federal reimbursement is not available shall
27 be funded as prescribed by the Legislature in the Budget Act, and
28 unless otherwise specified by the Legislature, shall not utilize
29 federal funds made available through Title XX of the Social
30 Security Act (42 U.S.C. Sec. 1397).

31 (b) Three- and four-year-old children are eligible for the part-day
32 California state preschool program if the family meets at least one
33 of the criteria specified in paragraph (1) of subdivision (a) of
34 Section 8263.

35 (c) Notwithstanding any other provision of law, a part-day
36 California state preschool program may provide services to children
37 in families above the income eligibility threshold, as described in
38 Sections 8263 and 8263.1, after all eligible three- and four-year-old
39 children have been enrolled. ~~No more than 10 percent of children~~
40 ~~enrolled, calculated throughout the participating program’s entire~~

1 contract, may be filled by children in families above the income
2 eligibility threshold. *children have been enrolled.*

3 (d) A part-day California state preschool program shall operate
4 for a minimum of (1) three hours per day, excluding time for
5 home-to-school transportation, and (2) a minimum of 175 days
6 per year, unless the contract specifies a lower number of days of
7 operation.

8 (e) Three- and four-year-old children are eligible for full-day
9 California state preschool program services if the family meets at
10 least one of the criteria specified in paragraph (1) of subdivision
11 (a) of Section 8263, and the parents meet at least one of the criteria
12 specified in paragraph (2) of subdivision (a) of Section 8263.

13 (f) A full-day California state preschool program shall operate
14 (1) full time determined by the number of hours necessary to meet
15 the child care and development needs of families, and (2) a
16 minimum of 246 days per year, unless the contract specifies a
17 lower number of days of operation.

18 (g) Fees shall be assessed and collected for families with
19 children in the full-day California state preschool program pursuant
20 to subdivisions (g) and (h) of Section 8263. Fees shall not be
21 assessed for families whose children are enrolled in the part-day
22 California state preschool program.

23 (h) Any agency described in subdivision (c) of Section 8208 as
24 an “applicant or contracting agency” is eligible to contract to
25 operate a California state preschool program.

26 ~~SEC. 5:~~

27 *SEC. 4.* Section 8236 of the Education Code is amended to
28 read:

29 8236. (a) (1) Each applicant or contracting agency funded
30 pursuant to Section 8235 shall give first priority to three- or
31 four-year-old neglected or abused children who are recipients of
32 child protective services, or who are at risk of being neglected,
33 abused, or exploited upon written referral from a legal, medical,
34 or social service agency. If an agency is unable to enroll a child
35 in this first priority category, the agency shall refer the child’s
36 parent or guardian to local resource and referral services so that
37 services for the child can be located.

38 (2) Notwithstanding Section 8263, after children in the first
39 priority category set forth in paragraph (1) are enrolled, each
40 agency funded pursuant to Section 8235 shall give priority to

1 eligible four-year-old children prior to enrolling eligible
2 three-year-old children. Each agency shall certify to the
3 Superintendent that enrollment priority is being given to eligible
4 four-year-old children.

5 *(b) For California state preschool programs operating with*
6 *funding that was initially allocated in a prior fiscal year, at least*
7 *one-half of the children enrolled at a preschool site shall be*
8 *four-year-old children. Any exception to this requirement shall be*
9 *approved by the Superintendent. The Superintendent shall inform*
10 *the Secretary for Education and the Department of Finance of any*
11 *exceptions that have been granted and the reasons for granting*
12 *the exceptions.*

13 ~~(b)~~

14 *(c) The following provisions apply to the award of new funding*
15 *for the expansion of the California state preschool program that is*
16 *appropriated by the Legislature for that purpose in any fiscal year:*

17 *(1) In an application for those expansion funds, an agency shall*
18 *furnish the Superintendent with an estimate of the number of*
19 *four-year-old and three-year-old children that it plans to serve in*
20 *the following fiscal year with those expansion funds. The agency*
21 *also shall furnish documentation that indicates the basis of those*
22 *estimates.*

23 *(2) In awarding contracts for expansion pursuant to this*
24 *subdivision, the Superintendent, after taking into account the*
25 *geographic criteria established pursuant to Section 8279.3, and the*
26 *headquarters preferences and eligibility criteria relating to fiscal*
27 *or programmatic noncompliance established pursuant to Section*
28 *8261, shall give priority to applicant agencies that, in expending*
29 *the expansion funds, will be serving the highest percentage of*
30 *four-year-old children.*

31 ~~(c)~~

32 *(d) Nothing in this section shall be deemed to preclude a local*
33 *educational agency from subcontracting with an appropriate public*
34 *or private agency to operate a California state preschool program*
35 *and to apply for funds made available for the purposes of this*
36 *section. If a school district chooses not to operate or subcontract*
37 *for a California state preschool program, the Superintendent shall*
38 *work with the county office of education and other eligible agencies*
39 *to explore possible opportunities in contracting or alternative*
40 *subcontracting to provide a California state preschool program.*

1 ~~(d)~~

2 (e) Nothing in this section shall prevent eligible children who
3 are currently receiving services from continuing to receive those
4 services in future years pursuant to this chapter.

5 ~~SEC. 6.~~

6 SEC. 5. Section 8236.1 is added to the Education Code, to read:

7 ~~8236.1. (a) Notwithstanding any other provision of law, the~~
8 ~~Superintendent may transfer funds appropriated on and after~~
9 ~~January 1, 2009, between center child care and development~~
10 ~~programs and the California state preschool program for the~~
11 ~~purpose of maximizing funds and ensuring that the needs of the~~
12 ~~service population are met.~~

13 ~~(b) The department, with data collected pursuant to Sections~~
14 ~~8261.5 and 8265.5, Parts 98.70 and 98.71 of Title 45 of the Code~~
15 ~~of Federal Regulations, shall annually monitor funding utilized in~~
16 ~~center~~

17 8236.1. *The department shall annually monitor funding utilized*
18 *in general child care and development programs for infants and*
19 *toddlers, and hours of service provided in the California state*
20 *preschool program, and shall annually report to the Department*
21 *of Finance and to the Legislature a statewide summary identifying*
22 *the estimated funding utilized for infants and toddlers, and the*
23 *number of preschool age children receiving part-time and full-time*
24 *development services. The annual report shall include a*
25 *comparison to the prior year on a county-by-county basis.*

26 SEC. 6. Section 8236.2 is added to the Education Code, to
27 read:

28 8236.2. (a) *The Superintendent shall encourage California*
29 *state preschool program contracting agencies to offer full-day*
30 *services to parents who have a qualifying need.*

31 (b) *Part-day services shall be reimbursed on a per capita basis,*
32 *as determined by the Superintendent.*

33 (c) *Full-day services shall be reimbursed at no more than the*
34 *standard reimbursement rate with adjustment factors.*

35 (d) *Federal Head Start funds used to provide services to families*
36 *receiving California state preschool services shall be deemed*
37 *nonrestricted funds.*

38 SEC. 7. Section 8237 of the Education Code is amended to
39 read:

1 8237. A part-day California state preschool program contracting
2 agency has 120 calendar days prior to the first day of the beginning
3 of the new preschool year to certify eligibility and enroll families
4 into their program. Subsequent to enrollment, a child shall be
5 deemed eligible for a part-day California state preschool program
6 for the remainder of the program year.

7 ~~SEC. 8. Section 8238 of the Education Code is amended to~~
8 ~~read:~~

9 ~~8238. California state preschool programs located in the~~
10 ~~attendance area of elementary schools ranked in deciles 1 to 3,~~
11 ~~inclusive, of the most recent base Academic Performance Index~~
12 ~~established by the Superintendent pursuant to Section 52056, that~~
13 ~~receive funding for the literacy component based on the criteria~~
14 ~~established by the Superintendent pursuant to paragraph (2) of~~
15 ~~subdivision (c) of Section 8238.4, shall provide both of the~~
16 ~~following:~~

17 ~~(a) Age and developmentally appropriate activities for children~~
18 ~~in participating classrooms that are designed to facilitate their~~
19 ~~transition to kindergarten.~~

20 ~~(b) Opportunities for parents and legal guardians to work with~~
21 ~~their children on interactive literacy activities.~~

22 ~~SEC. 9. Section 8238.1 of the Education Code is amended to~~
23 ~~read:~~

24 ~~8238.1. California state preschool programs located in the~~
25 ~~attendance area of elementary schools ranked in deciles 1 to 3,~~
26 ~~inclusive, of the most recent base Academic Performance Index~~
27 ~~established by the Superintendent pursuant to Section 52056, that~~
28 ~~receive funding for the literacy component based on the criteria~~
29 ~~established by the Superintendent pursuant to paragraph (2) of~~
30 ~~subdivision (c) of Section 8238.4, shall coordinate the provision~~
31 ~~of all of the following:~~

32 ~~(a) Parenting education for parents and legal guardians of~~
33 ~~children in participating classrooms to support the development~~
34 ~~by their children of literacy skills. Parenting education shall~~
35 ~~include, but not be limited to, instruction in all of the following:~~

36 ~~(1) Providing support for the educational growth and success~~
37 ~~of their children.~~

38 ~~(2) Improving the parent-school communications and parental~~
39 ~~understanding of school structures and expectations.~~

~~(3) Becoming active partners with teachers in the education of their children.~~

~~(b) Making referrals, as necessary, to providers of instruction in adult education and English as a second language in order to improve the academic skills of parents and legal guardians of children in participating classrooms.~~

~~SEC. 10. Section 8238.3 of the Education Code is amended to read:~~

~~8238.3. California state preschool programs located in the attendance area of elementary schools in deciles 1 to 3, inclusive, based on the most recent base Academic Performance Index established pursuant to Section 52056, that receive funding for the literacy component based on the criteria established by the Superintendent pursuant to paragraph (2) of subdivision (c) of Section 8238.4, shall provide staff development for teachers in participating classrooms that includes, but is not limited to, all of the following:~~

~~(a) Development of a pedagogical knowledge including, but not limited to, improved instructional strategies.~~

~~(b) Knowledge and application of developmentally appropriate assessments of the prereading skills of children in participating classrooms.~~

~~(c) Information on working with families, including the use of onsite coaching, for guided practice in interactive literacy activities.~~

~~SEC. 11. Section 8238.4 of the Education Code is amended to read:~~

~~8238.4. (a) When funds appropriated for the California state preschool programs that are located in the attendance area of elementary schools ranked in deciles 1 to 3, inclusive, of the most recent base Academic Performance Index established pursuant to Section 52056 that receive funding for the literacy component based on the criteria established by the Superintendent pursuant to paragraph (2) of subdivision (c) are offered under a new competitive bidding process after January 1, 2008, due to the termination, suspension, or relinquishment of an original contract award, the department shall assign first priority to successful applicants that agree to maintain that class within the attendance area of the elementary school as originally granted.~~

~~(b) The State Department of Education shall report to the Department of Finance and the Legislature the number of children~~

1 who are being served in California state preschool programs. The
2 report shall also include the number of children served above the
3 income eligibility threshold.

4 (e) (1) Upon appropriation of funds in the annual Budget Act
5 or another statute, California state preschool programs located in
6 the attendance area of elementary schools ranked in deciles 1 to
7 3, inclusive, of the most recent base Academic Performance Index
8 established pursuant to Section 52056, shall receive up to five
9 million dollars (\$5,000,000) to be distributed to each participating
10 class at a rate of two thousand five hundred dollars (\$2,500) per
11 class per school year. Funds received pursuant to this subdivision
12 may be used for instructional materials, including consumables,
13 and for all of the purposes described in Sections 8238.1 to 8238.3,
14 inclusive. Eligibility to apply for funding pursuant to this
15 subdivision is restricted to participating programs that were
16 implemented and received funding pursuant to this section in the
17 2008–09 fiscal year.

18 (2) If the total amount available for the purposes of paragraph
19 (1) is insufficient to fund all of the participating classes at the
20 per-class rate described in that paragraph, the following priorities
21 for the distribution of funds shall apply:

22 (A) First priority shall go to programs that originally received
23 funding pursuant to Chapter 211 of the Statutes of 2006.

24 (B) Second priority shall go to California state preschool
25 programs located in the attendance area of a decile 1 elementary
26 school based on the most recent base Academic Performance Index
27 established pursuant to Section 52056. If the funds made available
28 for the purposes of paragraph (1) are insufficient to fund all of the
29 programs within this priority, a random draw will determine which
30 programs will receive funds.

31 (C) Third priority shall go to California state preschool programs
32 located in the attendance area of a decile 2 elementary school based
33 on the most recent base Academic Performance Index established
34 pursuant to Section 52056. If the funds made available for the
35 purposes of paragraph (1) are insufficient to fund all of the
36 programs within this priority, a random draw will determine which
37 programs will receive funds.

38 (D) Fourth priority shall go to California state preschool
39 programs located in the attendance area of a decile 3 elementary
40 school based on the most recent base Academic Performance Index

1 established pursuant to Section 52056. If the funds made available
2 for the purposes of paragraph (1) are insufficient to fund all of the
3 programs within this priority, a random draw will determine which
4 programs will receive funds.

5 ~~(3) Programs selected to receive funds for the purposes of~~
6 ~~paragraph (1) at the per-class rate described in this section shall~~
7 ~~continue to receive those funds for one additional year after the~~
8 ~~elementary school reaches decile 4 of the most recent Academic~~
9 ~~Performance Index established pursuant to Section 52056.~~

10 SEC. 12. ~~Section 8238.5 of the Education Code is amended~~
11 ~~to read:~~

12 ~~8238.5. Subject to the availability of funds, the Superintendent~~
13 ~~shall conduct an evaluation of the effectiveness of California state~~
14 ~~preschool programs with family literacy components established~~
15 ~~pursuant to this article. To the extent feasible, the evaluation shall~~
16 ~~do both of the following:~~

17 ~~(a) Rely on quantifiable measures of academic achievement of~~
18 ~~participating children, including, but not limited to, performance~~
19 ~~on the Standardized Testing and Reporting Program test and the~~
20 ~~English language development test administered in grade 3.~~

21 ~~(b) Estimate the costs and benefits of the programs.~~

22 SEC. 13. ~~Section 8238.6 of the Education Code is repealed.~~

23 SEC. 14. ~~Section 8239 of the Education Code is repealed.~~

24 SEC. 15. ~~Section 8239 is added to the Education Code, to~~
25 ~~read:~~

26 ~~8239. (a) The Superintendent shall encourage California state~~
27 ~~preschool program contracting agencies to offer full-day services~~
28 ~~to parents who have a qualifying need.~~

29 ~~(b) Part-day services provided under this section shall be~~
30 ~~reimbursed on a per capita basis, as determined by the~~
31 ~~Superintendent.~~

32 ~~(c) Full-day services provided under this section shall be~~
33 ~~reimbursed at no more than the standard reimbursement rate with~~
34 ~~adjustment factors.~~

35 ~~(d) Federal Head Start funds used to provide services to families~~
36 ~~receiving California state preschool services shall be deemed~~
37 ~~nonrestricted funds.~~

38 SEC. 16. ~~The heading of Article 8 (commencing with Section~~
39 ~~8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of the~~
40 ~~Education Code is amended to read:~~

Article 8. ~~Center Child Care and Development Programs~~

~~SEC. 17. Section 8240 of the Education Code is amended to read:~~

~~8240. The Superintendent, with funds appropriated for this purpose, shall administer center child care and development programs.~~

~~Center child care and development programs shall include:~~

~~(a) Age, culturally, linguistically, and developmentally appropriate activities for children.~~

~~(b) Supervision.~~

~~(c) Parenting education and parent involvement.~~

~~(d) Social services that include, but are not limited to, identification of child and family needs and referral to appropriate agencies.~~

~~(e) Health services.~~

~~(f) Nutrition.~~

~~(g) Training and career ladder opportunities, documentation of which shall be provided to the department.~~

~~SEC. 18. Section 8244 of the Education Code is amended to read:~~

~~8244. (a) (1) Any entity operating center child care and development programs funded pursuant to this chapter that provide direct services to children at two or more sites, including the use of more than one contract or subcontract funded pursuant to this chapter, shall employ a program director.~~

~~(2) Programs providing direct services to children, for the purposes of this section, are center child care and development programs pursuant to this article, migrant child care and development programs pursuant to Article 6 (commencing with Section 8230), California state preschool programs pursuant to Article 7 (commencing with Section 8235), child care and development services for children with exceptional needs programs pursuant to Article 9 (commencing with Section 8250), infant care and development services programs pursuant to Article 17 (commencing with Section 8390), and any of these programs operated through family child care homes.~~

~~(b) (1) For purposes of this section, the following definitions shall apply:~~

1 (A) ~~“Administrative responsibility” means awareness of the~~
2 ~~financial and business circumstances of the program, and, in~~
3 ~~appropriate cases, supervision of administrative and support~~
4 ~~personnel and the knowledge and authority to direct or modify~~
5 ~~administrative practices and procedures to ensure compliance to~~
6 ~~administrative and financial standards imposed by law.~~

7 (B) ~~“Program director” means a person who, regardless of his~~
8 ~~or her title, has programmatic and administrative responsibility~~
9 ~~for a child care and development program that provides direct~~
10 ~~services to children at two or more sites.~~

11 (C) ~~“Programmatic responsibility” means overall supervision~~
12 ~~of curriculum and instructional staff, including instructional aides,~~
13 ~~and the knowledge and authority to direct or modify program~~
14 ~~practices and procedures to ensure compliance to applicable quality~~
15 ~~and health and safety standards imposed by law.~~

16 (2) ~~Administrative and programmatic responsibility also includes~~
17 ~~the responsibility to act as the representative for the child~~
18 ~~development program to the department. With respect to programs~~
19 ~~operated through family child care homes, administrative and~~
20 ~~programmatic responsibility includes ensuring that quality services~~
21 ~~are provided in the family child care homes.~~

22 (e) ~~The program director also may serve as the site supervisor~~
23 ~~at one of the sites, provided that he or she both fulfills the duties~~
24 ~~of a “day care center director,” as set forth in Section 101315 of~~
25 ~~Title 22 of the California Code of Regulations, and meets the~~
26 ~~qualifications for a site supervisor as set forth in subdivision (aa)~~
27 ~~of Section 8208.~~

28 (d) ~~The Superintendent may waive the qualifications for program~~
29 ~~director described in Sections 8360.1 and 8360.3 upon a finding~~
30 ~~of one of the following circumstances:~~

31 (1) ~~The applicant is making satisfactory progress toward~~
32 ~~securing a permit issued by the Commission on Teacher~~
33 ~~Credentialing authorizing supervision of a child care and~~
34 ~~development program operating in two or more sites or fulfilling~~
35 ~~the qualifications for program directors in severely handicapped~~
36 ~~programs, as specified in Section 8360.3.~~

37 (2) ~~The place of employment is so remote from institutions~~
38 ~~offering the necessary coursework as to make continuing education~~
39 ~~impracticable and the contractor has made a diligent search but~~
40 ~~has been unable to hire a more qualified applicant.~~

1 ~~(e) The Superintendent, upon good cause, may by rule identify~~
2 ~~and apply grounds in addition to those specified in subdivision (d)~~
3 ~~for granting a waiver of the qualifications for program director.~~

4 ~~SEC. 19. Section 8250.5 of the Education Code is amended~~
5 ~~to read:~~

6 ~~8250.5. A contractor providing services pursuant to a center~~
7 ~~child care contract, a migrant child care contract, or an alternative~~
8 ~~payment child care contract is subject to the requirements of the~~
9 ~~Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.).~~

10 ~~SEC. 7. Section 8238.4 of the Education Code is amended to~~
11 ~~read:~~

12 8238.4. Of funds appropriated in Schedule (1) of Item
13 6110-196-0001 of Section 2.00 of the Budget Act of 2006 (Ch.
14 48, Stats. 2006) for child development and preschool programs,
15 fifty million dollars (\$50,000,000) is available for expenditure by
16 the Superintendent as follows:

17 (a) (1) Forty-five million dollars (\$45,000,000) to reimburse
18 participating programs on a per-child basis at the same rate that is
19 used for the state preschool program, as determined in the annual
20 Budget Act or other statute.

21 (2) The funds described in paragraph (1) shall be assigned to
22 programs located in the attendance area of elementary schools in
23 deciles 1 to 3, inclusive, based on the 2005 base Academic
24 Performance Index pursuant to Section 52056. Within elementary
25 schools in deciles 1 to 3, inclusive, based on the 2005 base
26 Academic Performance Index, preference shall be provided to
27 underserved areas as described in subdivision (d) of Section 8279.3.
28 If the funds described in paragraph (1) are offered under a new
29 competitive bidding process after January 1, 2008, due to the
30 termination, suspension, or relinquishment of an original contract
31 award and in order to maintain an existing class, the department
32 shall assign first priority to successful applicants that will maintain
33 that class within the attendance area of the elementary school as
34 originally granted.

35 (3) Notwithstanding any other provision of law, programs
36 receiving funding in this section shall serve children who would
37 attend kindergarten in the subsequent academic year. No child
38 shall receive services from a program under this section for more
39 than one year.

(4) Notwithstanding any other provision of law, a program receiving funding pursuant to this section may provide services to children in families above the income eligibility threshold, as described in Sections 8263 and 8263.1, if the number of contracted slots exceed the number of eligible children. No more than 20 percent of contracted slots, calculated throughout the participating program's entire contract, may be filled by children in families above the income eligibility threshold.

(5) The department shall report to the Department of Finance and the Legislature ~~at budget hearings in the annual report specified in Section 8236.1 and in the same format used for the annual report,~~ the number of children who are being served ~~with the funds described in paragraph (1) by the California state preschool program.~~ The report shall also include the number of children served above the income eligibility threshold and the age of all children served.

(b) (1) Five million dollars (\$5,000,000) to be distributed to each participating class at a rate of two thousand five hundred dollars (\$2,500) per class per school year. Funds received pursuant to this subdivision may be used for all of the following purposes:

(A) Compensation and support costs for program coordinators as described in Section 8238.2.

(B) Staff development pursuant to Section 8238.3.

(C) Family literacy services.

(D) Instructional materials, including consumables.

(2) In the event that the total amount described in paragraph (1) is insufficient to fund all of the participating class at the per classroom rate described in that paragraph, the class rate shall be prorated accordingly.

(3) *Eligibility to receive funding pursuant to this subdivision is restricted to participating programs that were eligible to receive funding pursuant to this section in the 2007–08 fiscal year.*

(c) The appropriation of funds for purposes of this section beyond the amounts described in this section shall be pursuant to the annual Budget Act or other statute.

(d) *Notwithstanding the provisions of this section to the contrary, programs receiving funding pursuant to this section may participate in all California state preschool programs administered by the Superintendent pursuant to Section 8235.*

1 ~~SEC. 20.~~

2 ~~SEC. 8.~~ Section 8264.5 of the Education Code is amended to
3 read:

4 8264.5. The Superintendent may waive or modify child
5 development requirements in order to enable child development
6 programs to serve combinations of eligible children in areas of
7 low population. The child development programs for which the
8 Superintendent may grant waivers shall include, but need not be
9 limited to, California state preschool full-day programs, child care
10 provided by the California School Age Families Education Program
11 (Article 7.1 (commencing with Section 54740) of Chapter 9 of
12 Part 29 of Division 4 of Title 2), infant care and development
13 services, migrant child care and development programs, and ~~center~~
14 *general* child care and development programs.

15 ~~SEC. 21.~~

16 ~~SEC. 9.~~ Section 8266.1 of the Education Code is amended to
17 read:

18 8266.1. Commencing with the 1995–96 fiscal year and each
19 fiscal year thereafter, for the purposes of this chapter,
20 reimbursement rates shall be adjusted by the following
21 reimbursement factors for child care and development programs
22 with a standard reimbursement rate, but shall not apply to the
23 Resource and Referral Programs set forth in Article 2 (commencing
24 with Section 8210), the Alternative Payment Programs set forth
25 in Article 3 (commencing with Section 8220), the part-day
26 California state preschool programs set forth in Article 7
27 (commencing with Section 8235), the ~~School-age Community~~
28 ~~Child Care Services~~ *schoolage community child care services*
29 programs set forth in Article 22 (commencing with Section 8460),
30 or to the schoolage parent and infant development programs:

31 (a) For child care and development providers serving children
32 for less than four hours per day, the reimbursement factor is 55
33 percent of the standard reimbursement rate.

34 (b) For child care and development program providers serving
35 children for not less than four hours per day, and less than six and
36 one-half hours per day, the reimbursement factor is 75 percent of
37 the standard reimbursement rate. For providers operating under
38 the At Risk Child Care Program set forth in Article 15.5
39 (commencing with Section 8350) and serving children for not less
40 than four hours per day, and less than seven hours per day, the

1 reimbursement factor is 75 percent of the standard reimbursement
2 rate.

3 (c) For child care and development program providers serving
4 children for not less than six and one-half hours per day, and less
5 than 10 and one-half hours per day, the reimbursement factor is
6 100 percent of the standard reimbursement rate. For providers
7 operating under the At Risk Child Care Program set forth in Article
8 15.5 (commencing with Section 8350) and serving children for
9 not less than seven hours per day, and less than 10 hours per day,
10 the reimbursement factor is 100 percent of the standard
11 reimbursement rate.

12 (d) For child care and development program providers serving
13 children for 10½ hours or more per day, the reimbursement factor
14 is 118 percent of the standard reimbursement rate.

15 ~~SEC. 22.~~

16 *SEC. 10.* This act shall become operative on July 1, 2009.

17 ~~SEC. 23.~~

18 *SEC. 11.* This act shall become operative only if Senate Bill
19 1629 of the 2007–08 Regular Session of the Legislature is enacted
20 and becomes effective on or before January 1, 2009.